

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

**NOTICE OF MOTION**

vs.

Docket No. 1:23-CR-00099-LJV-JJM

SCOTT J. BARNES,

Defendant.

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Motion By: David B. Cotter, Esq., Attorney for Defendant Scott J. Barnes

Date, Time, & Place: Before the Hon. Jeremiah J. McCarthy, U.S.M.J., 2 Niagara Square, Buffalo, New York 14202 at a date and time to be determined by the court

Supporting Papers: Affirmation of David B. Cotter dated June 12, 2024 and Exhibits attached thereto

Relief Requested: Joinder of other defense Motions seeking non-exclusion of time

Dated: June 12, 2024  
Buffalo, New York

**COTTER & COTTER, P.C.**



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David B. Cotter, Esq.  
*Attorney for Defendant Scott J. Barnes*  
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138 Delaware Avenue  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

**AFFIRMATION**

vs.

Docket No. 1:23-CR-00099-LJV-JJM

SCOTT J. BARNES,

Defendant.

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STATE OF NEW YORK }  
COUNTY OF ERIE } ss.:

David B. Cotter, an attorney at law duly licensed to practice before the United States District Court for the Western District of New York and I affirm the following to be true under penalty of perjury.

1. I represent the Defendant, Scott J. Barnes in the above referenced matter and have since shortly after his arrest on December 7, 2023 and am fully familiar with the facts and circumstances of this case.
2. I make this Affirmation in support of Mr. Barnes' Motion for joinder of other defense Motions seeking that the period of time, either from February 23, 2024 through June 27, 2024, or, from June 3, through June 27, 2024 not be excluded from the Speedy Trial Clock.
3. Mr. Barnes is charged with being a felon in possession of a firearm in violation of 18 USC §922(g)(1). He is exposed to a maximum period of incarceration of 15 years if found guilty and will have a presumptively reasonable guideline range of approximately 3 years; he is not charged with any crime that is associated with any of his co-defendants. The discoverable material in his case – as it relates to his charges – is relatively minimal. Notwithstanding that, no material was produced before the court imposed deadline.

4. Your affiant reminds the court that Mr. Barnes' physical/medical condition is of note and has been the subject of several court appearances.
5. There should be a sanction for the government's conduct, or, lack thereof.

WHEREFORE, your affiant respectfully requests this Court grant the request that the time not be excluded.

Dated: June 12, 2024  
Buffalo, New York

  
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David B. Cotter

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

vs.

**CERTIFICATE OF SERVICE**

SCOTT J. BARNES,

Docket No. 1:23-CR-00099-LJV-JJM

Defendant.

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David B. Cotter, states that on February 26, 2024 a Notice of Motion and Affirmation were electronically filed with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

Assistant United States Attorney Joseph M. Tripi  
Assistant United States Attorney Nicholas Cooper



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David B. Cotter